



Paper No. 21

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OFFICE OF PETITIONS

In re Application of
Mar Tormo, Ana Tari,
Gabriel Lopez-Berestein and
Timothy McDonnell
Application No. 09/381,747
Filed: September 22, 1999
Attorney Docket No. UTSC:550
Title: INHIBITION OF BCL-2 PROTEIN
EXPRESSION BY LIPOSOMAL ANTISENSE
OLIGODEOXYNUCLEOTIDES

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition under § 1.47(a), filed June 6, 2002, which should properly be treated as a petition under § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67¹.

Preliminary, it is noted that a decision on the petition was initially held in abeyance pending revival of this application or a showing that the application was not abandoned.

In this regard, the above-identified application was considered abandoned for failure to timely file a proper response to the final Office action mailed February 1, 2001. A reply was filed on August 7, 2001 (certificate of mailing August 1, 2001), but by Office action mailed August 28, 2001, applicants were advised that the reply was determined by the examiner not to constitute a proper reply under 37 CFR 1.113(a) to the final rejection. No proper reply having been received and no further extensions of time obtainable, the application was considered abandoned effective August 2, 2001. A Notice of Abandonment was mailed on September 10, 2001. However, a further review of the electronic record of the application reveals that, on September 13, 2001, the Office rescinded the abandonment as the examiner had determined that the Office action mailed February 2, 2001 was not a final rejection and thus, the response filed on August 7, 2001, should have been considered as a response to a non-final rejection. Now that a showing has been made that the application is not abandoned, a decision on the petition under § 1.47 can be rendered.

The petition is **GRANTED**.

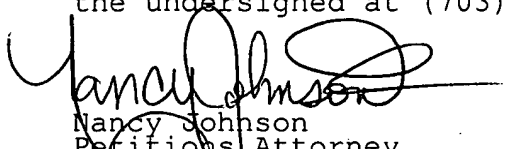
By declarations of Cheryl McCants and Priya D. Subramony, petitioners have shown the unavailability, within the meaning of 37 CFR 1.47, of inventor Tormo to execute the substitute declaration. Inventor Tormo previously signed declarations for patent in this application. However, those declarations were rendered defective. The petition shows *bona fide* attempts to present inventor Tormo with the substitute declaration for signature. The petition includes the

¹ A showing that such waiver is appropriate is generally met by satisfying the requirements of § 1.47 for acceptance of an original declaration without the signatures of all inventors.

petition fee and a statement of the last known address of inventor Tormo.

The application file is being returned to Technology Center 1635 for action by the examiner, including as appropriate mailing of an Office action in response to Paper No. 12. (See Paper No. 13).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



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Office of Petitions